

Office of the Secretary, USDA

§ 1.603

License party means a party to the license proceeding, as that term is defined at 18 CFR 385.102(c).

License proceeding means a proceeding before FERC for issuance of a license for a hydroelectric facility under 18 CFR part 4 or 5.

Material fact means a fact that, if proved, may affect a Department's decision whether to affirm, modify, or withdraw any condition or prescription.

Modified condition or prescription means any modified condition or prescription filed by a Department with FERC for inclusion in a hydropower license.

NEPA document means an environmental document as defined at 40 CFR 1508.10 to include an environmental assessment, environmental impact statement (EIS), finding of no significant impact, and notice of intent to prepare an EIS. Such documents are issued to comply with the requirements of the National Environmental Policy Act of 1969, 42 U.S.C. 4321 *et seq.*, and the *CEQ Regulations Implementing the Procedural Requirements of NEPA* (40 CFR parts 21500–1508).

NFS means the National Forest System and refers to:

- (1) Federal land managed by the Forest Service; and
- (2) The Deputy Chief of the National Forest System, located in the Forest Service's Washington, DC, office.

Office of Administrative Law Judges (OALJ) is the office within USDA in which ALJs conduct hearings under the regulations in this subpart.

Party means, with respect to USDA's hearing process:

- (1) A license party that has filed a timely request for a hearing under:
 - (i) Section 1.621; or
 - (ii) Either 43 CFR 45.21 or 50 CFR 221.21, with respect to a hearing process consolidated under § 1.623;
- (2) A license party that has filed a timely notice of intervention and response under:
 - (i) Section 1.622; or
 - (ii) Either 43 CFR 45.22 or 50 CFR 221.22, with respect to a hearing process consolidated under § 1.623;
 - (3) The Forest Service; and
 - (4) Any other Department that has filed a preliminary condition or pre-

scription, with respect to a hearing process consolidated under § 1.623.

Person means an individual; a partnership, corporation, association, or other legal entity; an unincorporated organization; and any Federal, State, Tribal, county, district, territorial, or local government or agency.

Preliminary condition or prescription means any preliminary condition or prescription filed by a Department with FERC for potential inclusion in a hydropower license.

Prescription means a fishway prescribed under FPA sec. 18, 16 U.S.C. 811, to provide for the safe, timely, and effective passage of fish.

Representative means a person who:

- (1) Is authorized by a party to represent the party in a hearing process under this subpart; and
- (2) Has filed an appearance under § 1.610.

Reservation has the same meaning as the term “reservations” in FPA sec. 3(2), 16 U.S.C. 796(2).

Secretary means the Secretary of Agriculture or his or her designee.

Senior Department employee has the same meaning as the term “senior employee” in 5 CFR 2637.211(a).

USDA means the United States Department of Agriculture.

You refers to a party other than a Department.

§ 1.603 How are time periods computed?

(a) *General.* Time periods are computed as follows:

- (1) The day of the act or event from which the period begins to run is not included.
- (2) The last day of the period is included.
 - (i) If that day is a Saturday, Sunday, or Federal holiday, the period is extended to the next business day.
 - (ii) The last day of the period ends at 5 p.m. at the place where the filing or other action is due.
- (3) If the period is less than 7 days, any Saturday, Sunday, or Federal holiday that falls within the period is not included.

(b) *Extensions of time.* (1) No extension of time can be granted to file a request for a hearing under § 1.621, a notice of intervention and response under § 1.622,

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an answer under § 1.625, or any document under §§ 1.670 through 1.674.

(2) An extension of time to file any other document under this subpart may be granted only upon a showing of good cause.

(i) To request an extension of time, a party must file a motion under § 1.635 stating how much additional time is needed and the reasons for the request.

(ii) The party must file the motion before the applicable time period expires, unless the party demonstrates extraordinary circumstances that justify a delay in filing.

(iii) The ALJ may grant the extension only if:

(A) It would not unduly prejudice other parties; and

(B) It would not delay the decision under § 1.660.

§ 1.604 What deadlines apply to the trial-type hearing and alternatives processes?

(a) The following table summarizes the steps in the trial-type hearing process under this subpart and indicates the deadlines generally applicable to each step. If the deadlines in this table are in any way inconsistent with the deadlines as set by other sections of this subpart or by the ALJ, the deadlines as set by those other sections or by the ALJ control.

Process step	Process day	Must generally be completed	See section
(1) Forest Service files preliminary condition(s) with FERC.	0	1.620.
(2) License party files request for hearing ..	30	Within 30 days after Forest Service files preliminary condition(s) with FERC.	1.621(a).
(3) Any other license party files notice of intervention and response.	50	Within 20 days after deadline for filing requests for hearing.	1.622(a).
(4) NFS refers case to ALJ office for hearing and issues referral notice to parties.	85	Within 55 days after deadline for filing requests for hearing.	1.626(a).
(5) Parties may meet and agree to discovery (optional step).	86–91	Before deadline for filing motions seeking discovery.	1.641(a).
(6) ALJ office sends docketing notice, and ALJ issues notice setting date for initial prehearing conference.	90	Within 5 days after effective date of referral notice.	1.630.
(7) Party files motion seeking discovery from another party.	92	Within 7 days after effective date of referral notice.	1.641(d).
(8) Other party files objections to discovery motion or specific portions of discovery requests.	99	Within 7 days after service of discovery motion.	1.641(e).
(9) Parties meet to discuss discovery and hearing schedule.	100–104	Before date set for initial prehearing conference.	1.640(d).
(10) ALJ conducts initial prehearing conference.	105	On or about 20th day after effective date of referral notice.	1.640(a).
(11) ALJ issues order following initial prehearing conference.	107	Within 2 days after initial prehearing conference.	1.640(g).
(12) Party responds to interrogatories from another party as authorized by ALJ.	120–22	Within 15 days after ALJ's order authorizing discovery during or following initial prehearing conference.	1.643(c).
(13) Party responds to requests for documents, etc., from another party as authorized by ALJ.	120–22	Within 15 days after ALJ's order authorizing discovery during or following initial prehearing conference.	1.645(c).
(14) Parties complete all discovery, including depositions, as authorized by ALJ.	130	Within 25 days after initial prehearing conference.	1.641(i).
(15) Parties file updated lists of witnesses and exhibits.	140	Within 10 days after deadline for completion of discovery.	1.642(b).
(16) Parties file written direct testimony	140	Within 10 days after deadline for completion of discovery.	1.652(a).
(17) Parties complete prehearing preparation and ALJ commences hearing.	155	Within 25 days after deadline for completion of discovery.	1.650(a).
(18) ALJ closes hearing record	160	When ALJ closes hearing	1.658.
(19) Parties file post-hearing briefs	175	Within 15 days after hearing closes	1.659(a).
(20) ALJ issues decision	190	Within 30 days after hearing closes	1.660(a).

(b) The following table summarizes the steps in the alternatives process under this subpart and indicates the deadlines generally applicable to each

step. If the deadlines in this table are in any way inconsistent with the deadlines as set by other sections of this